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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,575	10/24/2003	Dany Sylvain	7000-281	9071

27820 7590 04/20/2007  
WITHROW & TERRANOVA, P.L.L.C.  
100 REGENCY FOREST DRIVE  
SUITE 160  
CARY, NC 27518

EXAMINER
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TIEU, BENNY QUOC

ART UNIT	PAPER NUMBER
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2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/692,575		SYLVAIN, DANY	
	<b>Examiner</b>		<b>Art Unit</b>	
	Benny Q. Tieu		2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-8, 10, 11, 15, 17-25, 27, 28, 32, and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Sands (U.S. Patent No. 6,631,188).

Regarding claim 1, Sands teaches a method for selectively controlling the provision of a call waiting alert in response to an incoming call when a user is participating in an active call, comprising:

- a. receiving an incoming call indication indicative of an incoming call intended for a user's telephone terminal (Fig. 5, 130);
- b. determining whether to provide a call waiting alert to the user's telephone terminal based on a call waiting rule set, which is customized for the user (Fig. 5, 136); and
- c. providing an instruction instructing a telephony switch whether to provide the call waiting alert to the user's telephone terminal (Fig. 5, 138 or 148).

Regarding claim 2, Sands further teaches the method comprising receiving information indicating the user is engaged in the active call (column 3, lines 59-67).

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Regarding claim 3, Sands further teaches the method comprising receiving identifying information identifying a party with whom the user is engaged in the active call (column 6, lines 13-17).

Regarding claim 4, Sands further teaches the method comprising receiving information indicating that the user is no longer participating in the active call (column 6, lines 50-53).

Regarding claim 5, Sands further teaches the method wherein the instruction is adapted to instruct the telephony switch to provide the call waiting alert (column 6, lines 13-17).

Regarding claim 6, Sands further teaches the method wherein the instruction is adapted to instruct the telephony switch to forward the incoming call to a voicemail system for the user (column 4, lines 2-5).

Regarding claim 7, Sands further teaches the method wherein the instruction is adapted to instruct the telephony switch to send a busy signal to a caller initiating the incoming call (column 6, lines 43-47).

Regarding claim 8, Sands further teaches the method comprising receiving customizing information from the user to customize the call waiting rule set for the user (column 6, lines 17-27).

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Regarding claim 10, Sands further teaches the method wherein the customizing information is received from a telephony terminal via an interactive voice response system (column 6, lines 17-27).

Regarding claim 11, Sands further teaches the method wherein the call waiting rule set is customized such that providing the call waiting alert is based at least in part on information identifying a caller initiating the incoming call (column 4, lines 49-57).

Regarding claim 15, Sands further teaches the method wherein the call waiting rule set is customized such that providing the call waiting alert is based at least in part on a relative priority or urgency associated with the incoming call (column 6, lines 1-13).

Regarding claim 17, Sands further teaches the method wherein the call waiting rule set is customized such that providing the call waiting alert is based at least in part on previous callers (column 3, lines 27-33).

Regarding claim 18, Sands further teaches the method wherein the incoming call indication is received from the telephony switch (column 4, lines 5-10).

Regarding claims 19-25, 27, 28, 32 and 34-36, the limitations of the claims are rejected for the same reasons as set forth in the rejection of claims 1-8, 10, 11, 15, 17 and 18 above.

3. Claims 1,9, 12-14, 16, 19, 26, 29-31 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Gurgun (U.S. Patent No. 2002/0141559).

Regarding claims 1 and 26, Gurgun teaches a method and system for selectively controlling the provision of a call waiting alert in response to an incoming call when a user is participating in an active call, comprising:

- a. receiving an incoming call indication indicative of an incoming call intended for a user's telephone terminal (Fig. 6, 620);
- b. determining whether to provide a call waiting alert to the user's telephone terminal based on a call waiting rule set, which is customized for the user (Fig. 6, 640); and
- c. providing an instruction instructing a telephony switch whether to provide the call waiting alert to the user's telephone terminal (Fig. 6, 650).

Regarding claims 9 and 26, see paragraph [0015].

Regarding claims 12, 13, 29 and 30, see paragraphs [0019] - [0023].

Regarding claims 14 and 33, Gurgun further teaches the method and system wherein the call waiting rule set is customized such that providing the call waiting alert is based at least in part on a time, date, or combination thereof associated with the incoming call (Fig. 11).

### ***Response to Arguments***

4. Applicant's arguments filed February 15, 2007 have been fully considered but they are not persuasive. Applicant argues that Sand does not disclose “receiving an incoming call indication indicative of an incoming call” and states that in Sand, the actual call is sent to controller 60. Examiner respectfully disagrees. Sand teaches that the access switch 69 (within

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the controller 60) receives a message (read on “indication”) from the local switch 64. Access switch 69 could be connected to the signaling network as is known in the art (Sand, column 4, lines 36-42). Therefore, the communication between the local switch 64 and the controller must be via messages. The local switch 64 never sends the call to the controller. Indeed, no reasons for the local switch 64 to send the incoming call to the controller since, as shown in Fig. 2, the controller stands aside to process, control and provide the information back to the local switch 64 in order for the local switch 64 to provide call waiting function to the subscriber. Therefore, Examiner believes Sand meets all limitations of the claims. Further, Applicant states that Gurgun does not disclose “receiving an incoming call indication indicative of an incoming call...”. Examiner respectfully disagrees. Gurgun clearly teaches that the receiver receives an “indication” as shown in claim 39, for example, a receiver unit receives a request (reads on an indication, not a call) from a first party to establish a communication session with a second party. Therefore, Gurgun meets all limitations of claim 1.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7490, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benny Q. Tieu whose telephone number is 571-272-7490. The examiner can normally be reached on Monday-Friday: 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Benny Q. Tieu". The signature is fluid and cursive, with a long horizontal stroke at the end.

Benny Q. Tieu  
Primary Examiner  
Art Unit 2614